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PUBLIC SERVICE
COMMISSION

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August 5, 2008

Stephanie L. Stumbo
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40601

*RE: An Investigation Into The Traffic Dispute Between Windstream Kentucky
East, LLC, Brandenburg Telephone Company And MCImetro Access
Transmission Services, LLC d/b/a Verizon Access
Case No. 2008-00203*

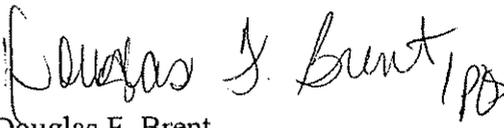
Dear Ms. Stumbo:

Filed today is MCImetro Access Transmission Services LLC's Pre-Hearing Memorandum.

Please indicate receipt of these filings by placing your file stamp on the extra copies and returning to me via our runner.

Very truly yours,

STOLL KEENON OGDEN PLLC


Douglas F. Brent

DFB:

Enclosures

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE TRAFFIC)	
DISPUTE BETWEEN WINDSTREAM)	
KENTUCKY EAST, LLC, BRANDENBURG)	CASE NO. 2008-00203
TELEPHONE COMPANY AND MCIMETRO)	
ACCESS TRANSMISSION SERVICES LLC)	
D/B/A VERIZON ACCESS)	

PRE-HEARING MEMORANDUM OF MCIMETRO ACCESS SERVICES LLC

This pre-hearing memorandum is submitted by MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (“MCImetro”) pursuant to the Commission’s procedural order of July 11, 2008.

FACTUAL AND PROCEDURAL BACKGROUND

MCImetro is a competitive local exchange carrier (“CLEC”) that provides service in various parts of Kentucky, including Elizabethtown. Windstream Kentucky East, LLC (“Windstream”) is the incumbent local exchange carrier (“ILEC”) in Elizabethtown. In 2003, MCImetro established interconnection with Windstream in Elizabethtown, Kentucky and entered into an interconnection agreement with it. After this agreement was reached, MCImetro began providing service in Elizabethtown.

On June 2, 2008, Windstream blocked the transmission of traffic from Brandenburg Telephone Company (“Brandenburg Telephone”) to telephone numbers served by MCImetro. The affected traffic originated from Brandenburg Telephone customers in Radcliff, Kentucky, where Brandenburg Telephone is the ILEC. The affected numbers are within NPA-NXXs, e.g., 270-769, to which Brandenburg Telephone offers its Radcliff customers toll-free calling. The affected

numbers are assigned to MCImetro's customer America Online ("AOL"), an Internet service provider service ("ISP").

Windstream's actions blocked Brandenburg Telephone's customers trying to access AOL. When MCImetro learned of Windstream's actions, MCImetro notified the Commission about the blocked ISP traffic. After a telephone conference among the carriers and the Commission staff, Windstream ceased blocking the traffic. The Commission opened an investigation, ordering that "[t]he traffic arrangements, as they exist on June 30, 2008, shall continue in their current form until this dispute is resolved." *Order*, July 1. The Commission set an informal conference for July 9, 2008. On July 3, 2008, Windstream filed a motion for a hearing in lieu of the informal conference. MCImetro and Brandenburg responded to the motion, which the Commission denied as moot. The Commission then issued its procedural order governing discovery, pre-filed testimony, and hearing.

ISSUES TO BE DECIDED AT THE HEARING

The Commission will need to decide the routing obligations of Windstream and Brandenburg Telephone related to the affected traffic. For several years Brandenburg Telephone has routed this traffic to Windstream. Although the volume of traffic has been in steady decline, recently Windstream has claimed this routing is improper, and that Brandenburg Telephone should "establish a business relationship with [MCImetro] for the termination of this ISP traffic" instead of routing the traffic to Windstream. The Commission will need to determine whether Brandenburg Telephone may route this traffic pursuant to its current arrangements with Windstream, or whether the traffic should instead be routed by Brandenburg to Windstream's Elizabethtown tandem, or directly to MCImetro at another established interconnection point within the Louisville LATA (LATA 462).

A related issue is how Windstream should be compensated by Brandenburg Telephone for the traffic at issue, if Brandenburg continues to route the traffic over Windstream's network.

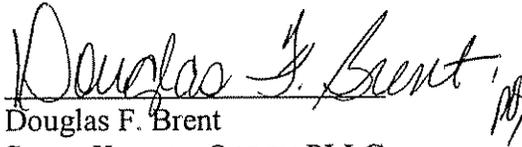
Windstream has claimed that Brandenburg has “denied reimbursement to Windstream for the use of Windstream’s network to deliver the traffic.” Windstream’s claim for reimbursement implicates Windstream’s own “transit traffic tariff” filed in late 2006. Windstream provides a tariffed transit service whereby Brandenburg Telephone may route traffic to MCImetro via Windstream, the transit provider. MCImetro can accept this transited traffic at Elizabethtown. The transit tariff contains separate rates for transit depending on whether the originating carrier routes its traffic to an end office (as Brandenburg Telephone does today) or to a tandem office. Brandenburg Telephone has told the Commission it considers this a matter regarding transit traffic and MCImetro agrees. The only issue is whether the traffic should be handed off at an end office or tandem in Elizabethtown (and thus which transit rates should apply), an issue on which MCImetro takes no position.

What is not at issue is whether MCImetro should be forced¹ into an agreement with Brandenburg Telephone. The calls at issue are to numbers Brandenburg Telephone has designated as toll free to its customers. MCImetro has no control or influence over how Brandenburg Telephone defines its local and/or toll free calling area or establishes its Extended Areas Service arrangements. Moreover, MCImetro does not provide local service anywhere within Brandenburg Telephone’s exchanges and thus does not provide toll free calling from Elizabethtown to Radcliff. Under these circumstances MCImetro is not obligated to establish a contractual relationship with Brandenburg Telephone to exchange traffic—there is no traffic from MCImetro to Brandenburg Telephone. MCImetro has, however, established interconnection with Windstream in Elizabethtown, Kentucky. With its Elizabethtown *interconnection point*, MCImetro is physically located within the relevant local calling areas of

¹ MCImetro is amenable to entering into a reasonable and appropriate agreement with Brandenburg Telephone, but the parties have not yet been able to reach such an agreement. Brandenburg Telephone has rejected various alternatives offered by MCImetro and has filed a formal complaint against MCImetro and Windstream.

both Windstream and Brandenburg Telephone. MCImetro can accept traffic from Brandenburg Telephone in Elizabethtown, just as it does from Windstream.

Respectfully submitted,

A handwritten signature in black ink that reads "Douglas F. Brent" with a stylized flourish at the end.

Douglas F. Brent
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*Counsel to MCImetro Access Transmission Services
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CERTIFICATE OF SERVICE

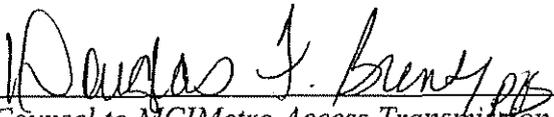
I hereby certify that a true and accurate copy of the foregoing was served on the following by first-class United State mail, sufficient postage prepaid, this 5th day of August, 2008.

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Counsel to MCIMetro Access Transmission Services LLC